

National Park Service
Department of the Interior
Superintendent's Compendium
Of Designations, Closures, Permit
Requirements and Other
Restrictions
Imposed Under Discretionary
Authority



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El Malpais National Monument

Approved:

_____/s/_____: date: 30 December 2005

Kayci Cook Collins, Superintendent

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following regulatory provisions are established for the proper management, protection, and public use of those portions of El Morro National Monument under the jurisdiction of the National Park Service (NPS). Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

In addition to these regulations, the following are also provided:

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, are required by Section 1.5(c) and appear in this document or as attached files contained in the Appendix A, B and C. Appendix A documents are available for review in the Chief Rangers Office at El Malpais National Monument, 123 East Roosevelt Avenue, Grants, New Mexico.

Section 1.6(f) states that a list of those activities that require a permit must be maintained. That list appears in this document under 1.6 and Appendix C.

As required by 1.7(b), these regulations, permit requirements, and written determinations shall be updated annually and made available to the public upon request.

PART 1 - GENERAL PROVISIONS

Definitions [Reference 36 CFR Section 1.4]

Cave (s) - Any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any dug, mine, tunnel, aqueduct, or other man-made excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or man-made. This will also include any natural pit, sinkhole, trench, collapsed lava tube, or other feature that is an extension of the entrance.

Climbing - Ascending or descending rocks with the aid of any equipment including, but not limited to, ropes, anchors, bolts, picks,

Contained Fire - A fire kindled in an established fire grate or in a portable fire/cooking container that serves to contain all flame, fuel, ash and debris from all contact with the ground or other materials outside the container. This includes propane cook stoves, barbeque grills, sterno stoves and other such approved devices.

Hunting Camps - A camp where the individuals are legally hunting, scouting and/or supporting legitimate hunting operations on lands bordering National Park Service property.

Information Center Complex - All of the buildings, supplies, materials and infrastructure in the general location of the Information Center located at 11,000 Ice Caves Rd, Grants, NM, which is located on the southwest side of NM Hwy 53 at about mile post 64. This includes the parking lot, fire cache, fire storage buildings, maintenance shed, pump-house, the brown cabin and all other associated infrastructure.

Northwest New Mexico Visitor Center Complex - All of the buildings, supplies, materials and infrastructure in the general location of the Northwest New Mexico Visitor Center located at 1900 E. Santa Fe Ave, Grants, NM. This includes the entrance road, parking areas, the NPS "bone yard" of excess supplies and materials, and all other associated infrastructure.

Park Road - Park road means the main-traveled surface of a roadway open to motor vehicles, owned, controlled or otherwise administered by the National Park Service. (As defined in the CFR.) This also includes two-track roads that are further defined and described in this section.

Northwest Tracts - The "Northwest Tracts" are tracts of real property that the National Park Service has purchased. The tracts contains physical improvements such as residences, storage sheds, and other physical improvements. These tracts are located north of New Mexico Highway 53, (T9N, R12W, Sections 14 & 15), in the northwest portion of the Monument.

Special Park Uses - As defined by Director's Order 53 a "special park use" is:

A short-term activity that takes place in a park area and:

Provides a benefit to an individual, group or organization, rather than the public at large.

Requires written authorization and some degree of management control from the NPS in order to protect park resources and the public interest.

Is not prohibited by law or regulation; and is neither initiated, sponsored, nor conducted by the NPS.

Two-track road - An un-maintained "park road", as defined in **36 CFR §1.4**, which is completely void of vegetation in the tracks, which shows use, and shows no evidence of ever having been closed to vehicular traffic by such means as berms, ripping, scarification, re-seeding, fencing, gates, barricades, or posted closures

Pack animal - Horses, burros, mules, other hoofed mammals and llamas.

Section 1.5 Closures and Public Use Limits

Visiting Hours:

Sandstone Bluffs Overlook and Parking Area: Visiting hours for the Sandstone Bluffs Area are from sunrise to dusk, unless otherwise authorized by permit from the Superintendent.

Determination: *When El Malpais National Monument was established, Sandstone Bluffs was locally known and popular as a party spot. There were frequent parties where large quantities of alcohol were consumed resulting in trash and debris thrown around the area and over the cliffs, fire scars were left on the rocks, and other resource damaging activities occurred. In association with the large quantities of alcohol consumed there was aberrant and deviant behavior that intimidated other individuals from visiting the area after dark. Therefore, closure of the area after dark is necessary to protect natural & cultural resources, development, and the visiting public.*

Information Center Complex: Visiting hours for public use of the Information Center Complex are daily between 0830-1630 hours, unless otherwise authorized by a permit from the Superintendent or by authorized special postings. This area will be closed on Thanksgiving, Christmas and New Years day.

Determination: *The U.S. Government has substantial interest in buildings, materials, equipment and supplies in the structures and work areas of the Information Center Complex, consequently, it is necessary to limit public use of this area to ensure the protection of the public and government interests. Therefore, public access to these buildings and areas is hereby limited to those days and hours where NPS personnel are available to staff the Information Center and thereby provide necessary security and oversight of these facilities.*

Northwest New Mexico Visitor Center (NWNMVC) Complex: Visiting hours for public use of the Northwest New Mexico Visitor Center Complex is seasonal in nature and dependent upon available staffing. However, hours of visitation will be between 0800-1800 hours. Specific hours for a season or day will be posted on the NWNMVC entrance sign and will be confirmed by the open or closed and locked gate at the entrance from Santa Fe Ave. Other public uses of this facility and area may be authorized by a permit from the Superintendent. This area will be closed on Thanksgiving, Christmas and New Years day.

Determination: *The U.S. Government has substantial interest in buildings, materials, equipment and supplies in the structures and work areas of this location, consequently, it is necessary to limit public use of this area to ensure the protection of the public and government interests. Therefore, public access to these buildings and areas are hereby limited to those days and hours where government employees are available to staff the Northwest New Mexico Visitor Center and thereby provide necessary security and oversight of these facilities.*

Closures and use limits:

Caves: Entry into all caves, except the five (5) listed below, is prohibited unless authorized by permit from the Superintendent. The below listed five (5) caves are accepted and are open to public use.

- Junction Cave
- Xenolith or Ghost Face Cave
- Four Windows Cave
- Big Skylight Cave
- Braided Cave will be closed seasonally (May through September) to protect sensitive bat species during their maternity season.

Determination:

Many caves in the monument have not yet been surveyed to determine what resources they contain, how delicate those resources may be, and/or if they are safe for public use. Until such time as a survey is completed and a determination is made as to whether a specific cave is safe for public use and whether or not that public use will negatively impact or damage natural or cultural resources, cave access will be by permit only.

*During the spring and summer months, a colony of Townsend's Big Eared bats (*Corynorhinus townsendii*) are observed in the collapses and bridges preceding the entrance to Braided Cave. Entry to the cave is through these collapses. Townsend's Big Eared bats are listed as threatened species in the state of New Mexico and are a species of concern by the USFWS. A USGS bat survey of the monument recommends closing Braided Cave seasonally to protect the maternity colonies. Therefore, Braided Cave will be closed seasonally (May through September) as posted.*

Additionally, flames and other heat producing devices in caves are destructive to fragile biological and geological resources, therefore, items such as gas lanterns, candles, torches, and all similar products and devices are prohibited. Only battery powered light sources 50,000 Candlepower or less, or other fully enclosed and sealed light producing items such as glow-sticks are authorized for use in caves.

Northwest Tracts: The portions of the Monument, which comprise the "Northwest Tracts", are tracts of once private property, which the government has acquired, and include physical improvements to the land. Physical improvements range from residences, barns, storage sheds, wells, etc. These improvements are unsafe for public access as they are rodent infested, of sub-standard construction, and often contain hazardous materials. Therefore, they are all slated for destruction. These sites will remain closed to public access until such time as the government is able to clean up or mitigate the safety issues in the area.

The following Northwest tracts, identified by the El Malpais Land Protection Plan tract numbers, are closed for public use and access:

_ 102-10	_ 102-21
_ 102-21	_ 102-26
_ 102-28	_ 102-29
_ 102-30	_ 102-31
_ 102-32	_ 102-33
_ 102-34	_ 102-35
_ 102-72	_ 102-73
_ 102-74	

Operation of Vehicles: Vehicle traffic, which includes all-terrain-vehicles (ATVs) and motorcycles, is restricted to maintained and designated park roads, including two-track roads.

Driving and parking more than 10 feet off any Park Road or two-track is prohibited.

All vehicles, which include all-terrain-vehicles (ATVs) and motorcycles, operated on roads, two-tracks, and parking areas within the Monument shall display a current state license and registration authorizing the use of that vehicle upon state and federal highways.

All vehicles, which include all-terrain-vehicles (ATVs) and motorcycles, will be insured in accordance with applicable state law.

All vehicles, which include all-terrain-vehicles (ATVs) and motorcycles, will be equipped with headlamp(s), tail lamp(s), tail reflector(s), brake lamp(s), turn signals, brakes, horn, muffler, and mirrors in compliance with New Mexico State Law 66-3-

801 through 66-3-901 and/or other applicable state law.

All operators of vehicles, which include all-terrain-vehicles (ATV's) and motorcycles, shall have a current state driver's license, proof of financial responsibility (insurance) and vehicle registration on their person.

Determination: Operation of vehicles, off Park Roads and two-tracks, destroys delicate natural and cultural resources, which the Monument was established to protect. Therefore, driving is prohibited more than 10 feet off a designated Park Road or two-track.

Additionally, the roads and terrain of the Monument are rough and may become hazardous depending on weather and conditions. Therefore, having a properly equipped vehicle which is licensed and registered for use upon state and federal highways, is insured in compliance with state law, and is operated by a licensed operator is necessary to protect public safety along with the natural, cultural and scenic values of the Monument. This definition includes motorcycles and ATV's.

Section 1.6(f), Permits

In compliance with 36 CFR 1.6(f), the following are activities requiring a special use permit through the Superintendent: (also see appendix C)

The following activities related to Public Use Limits:

- After hours visitation or use, Section 1.5
- Operating a motor vehicle off designated roads, Section 4.10(a)
- Driving or parking more than 10 feet off a designated road, Section 4.10(a)
- Carry or possess weapons, Section 2.4(d)
- Camping, Section 2.10
- Specimen collection, Section 2.5
- Aircraft and Air Delivery, Section 2.17
- Explosives, Section 2.38
- Special Events, Section (i.e. weddings, baptisms) Section 2.50
- Public Assemblies, Meetings, Section 2.51
- Sale or Distribution of Printed Matter, Section 2.52
- Commercial filming or photography Section 5.5(a) and (b)
- Use of commercial vehicles on park area roads Section 5.6 (c)

PART 2 – RESOURCE PROTECTION, PUBLIC USE AND RECREATION

Section 2.1 Preservation of natural, cultural and archeological resources.

Gathering, by hand, of edible fruits, nuts and berries for personal consumption:

Visitors may collect for personal consumption, quantities not to exceed ten (10) pounds of piñon and one-quarter (1/4) pound of berries, per person per day.

Determination: Nominal quantities of these resources are available in the Monument and therefore public gathering of the above-specified quantities will not unduly affect the propagation of the species nor deprive the natural wildlife of sustainable browse.

Rock Climbing: Rock climbing is prohibited, including caves and lava tubes, unless otherwise authorized by a permit from the Superintendent.

Determination: *The management of the Monument recognizes many of the areas where climbing may occur have significant cultural value to neighboring Native American Tribes and climbing activities may conflict with cultural activities and sacred sites which the Monument was, in part, established to protect.*

Section 2.2 Wildlife Protection.

Per Section (d) the superintendent hereby designates the following procedures under which lawfully taken wildlife may be transported through El Malpais National Monument:

- Transportation may only be by a vehicle on existing roads;
- A direct route is taken to public or private roads, or private property;
- Appropriate New Mexico State licenses must be in possession of the hunter and the required tags filled in and attached to the animal.

Per Section (e) the superintendent hereby designates all of El Malpais National Monument as closed to the viewing of wildlife with an artificial light, night vision, infrared, thermal imaging, or ultra-violet (black light) device of any kind.

Section 2.10 Camping and Food Storage.

Per Section (a) the superintendent hereby designates the following conditions for camping at El Malpais National Monument:

- Primitive, leave-no-trace, ethics are followed;
- Camping is limited to a maximum of seven consecutive days in any one area, and no more than 14 days in a calendar year;
- The maximum size of any one group of campers is 15 people in any one area;
- Vehicles are driven and parked no more than 10 feet off any designated Park Road or two-track.

Camping is prohibited at the following locations:

- Lava Falls entry road and parking area;
- Acoma/Zuni trail head parking area;
- Sandstone Bluffs entry road, picnic and parking area;
- Zuni/Acoma road, picnic, and parking area;
- El Calderon road, picnic and parking area;
- Within 1/4 mile of County Road 42, 1/4 mile of the Big Tubes maintained road, and 1/4 mile of Big Tubes parking lot, which includes the Big Tubes parking and picnic area;
- In any cave, lava tube, or within any archeological or historical site and/or structure;
- In the Information Center Complex;
- In the Northwest New Mexico Visitor Center Complex.

Determination: *Unrestricted camping activities hold the potential to damage sensitive soil, archeological, cave, and other associated natural resources. Camping is also not appropriate or esthetically suitable in areas subject to high public use and transit such as trailheads, parking areas, and visitor center complexes.*

Hunting camps are prohibited on National Park Service Property.

Determination: *Hunting or taking of any wildlife is prohibited within the boundaries of El Malpais National Monument. Hunting camps, by their nature, will potentially constitute the possession of weapons and the display of taken wildlife, both prohibited by 36 CFR*

§2.11 Picnicking.

Per Section 1.5(a)(1) the superintendent hereby closes the following areas to picnicking:

- all caves

- all lava tubes
- all archeological sites or structures
- all historical sites and structures.

Determination: *Trash receptacles are not provided at the above listed locations. Food and other trash not properly disposed of will disfigure the landscape and may encourage nuisance or possibly hazardous wildlife behavior.*

§2.13 Fires.

Per Section (a)(3) the superintendent hereby designates the following conditions to light or maintain a fire:

- Fires may be kindled only in existing developed grills, or
- A container suitable for confining the fire from contact with the ground or other resources.

The superintendent has closed all of El Malpais National Monument to the lighting or maintaining of ground fires.

Determination: *El Malpais National Monument is mandated to manage resources to minimize human impacts and protect natural and cultural resources. Unplanned and managed ground fires have been determined to adversely effect the resources of the area through the gathering of rare old wood which is valuable for study, the damage and destruction of cultural/archeological resources, the damage and destruction of pristine geological and sensitive biological resources, in addition to increasing the potential of catastrophic wildfire. Therefore, non-National Park Service planned and managed ground fires are prohibited. Only those fires that are contained in established grills or similar containerized devices are permitted.*

Section 2.14 Sanitation and Refuse.

Per Section (b) the superintendent hereby designates the following conditions concerning the disposal of human body waste:

- Where possible, latrines will be dug 6-8 inches deep in organic soil;
- Toilet paper will be buried along with the excrement or carried out.

Determination: *Due to recurring public use, all human waste will be properly disposed of as detailed above, otherwise highly unsanitary conditions would prevail that would potentially detract from a safe, healthy, and positive visitor experience. Such conditions are not considered compatible with proper backcountry ethics or the recreational activities and opportunities available at El Malpais National Monument.*

Section 2.15 Pets.

Per Section (a)(1) the superintendent hereby closes the following areas of El Malpais to pets:

- all caves
- all lava tubes
- all lava trenches
- all archeological sites
- all historical sites
- all government buildings, (excepting sense assist animals).
- all government vehicles

Determination: *Pets are likely to cause resource damage or also possibly threaten other visitors when encountered within the relatively close confines of the Monument's caves and lave tube systems.*

Section 2.16 Horses and Pack Animals.

Per Section (a) the superintendent hereby designates the following as “pack animals”:

- Horses
- Other hoofed mammals
- Llamas
- Burros and Mules

Per Section (b) the superintendent hereby designates only the following areas for use of horses or pack animals:

- Established two-track roads, and Park roads

Determination: *Horses and other pack animals may cause long-term resource damage during their passage off-road on soft soils or while grazing on native plants. Manure from these animals is likely to contain seeds from exotic plant species and noxious weeds that will spread, causing disruption to the natural ecosystem at El Malpais National Monument.*

Section 2.51 Designated First Amendment/Public Assembly Location(s).

Per Section (e) the superintendent hereby designates the following areas available for public assemblies of individuals and/or groups holding an approved permit (a map showing the location of these areas is attached in Appendix A.):

- Northwest New Mexico Visitor Center under the covered patio at the main entrance;
- Information Center at the Southwest corner of the paved parking area;

Section 2.52 Sale or distribution of printed matter.

Per Section (e) the superintendent hereby designates the following areas available for the sale or distribution of printed matter for individuals and/or groups holding an approved permit (a map showing the location of these areas is attached in Appendix A):

- Under the covered patio at the main entrance of the Northwest New Mexico Visitor Center;
- In the Southwest corner of the paved parking area of the Information Center located on NM Highway 53.

PART 4 - - VEHICLE AND TRAFFIC SAFETY

Section 4.21 Speed limits.

Per Section (b) the superintendent hereby designates the following speed limits for the following Park Roads:

- 25 Miles-per-hour on all NPS improved and maintained access roads and on all un-maintained two-track park roads.

Determination: *Vehicle speed on monument roads is regulated to protect public safety and to enhance the visitor experience. Roads in the monument are narrow, rough, irregularly maintained, and slower speeds ensure that drivers may safely negotiate these conditions.*

Section 4.30 Bicycles.

Per Section (a) the superintendent hereby designates all Park Roads, which are open to the public for vehicular use, open for bicycle use. This designation also includes all open two-track roads.

Per Section (d)(3) the superintendent hereby authorizes the operation of a bicycle abreast of another on all designated two-track roads, providing the abreast operation does not interfere with other vehicle usage.

Determination: *Bicycle use, is an environmentally friendly, fitness promoting activity and is welcomed at El Malpais National Monument. However, those wishing to do so are subject to the same laws and regulations governing the use of motorized vehicles. In order to mitigate potential resource damage or erosion, all bicycle activity is limited to established roadways and two-track roads.*

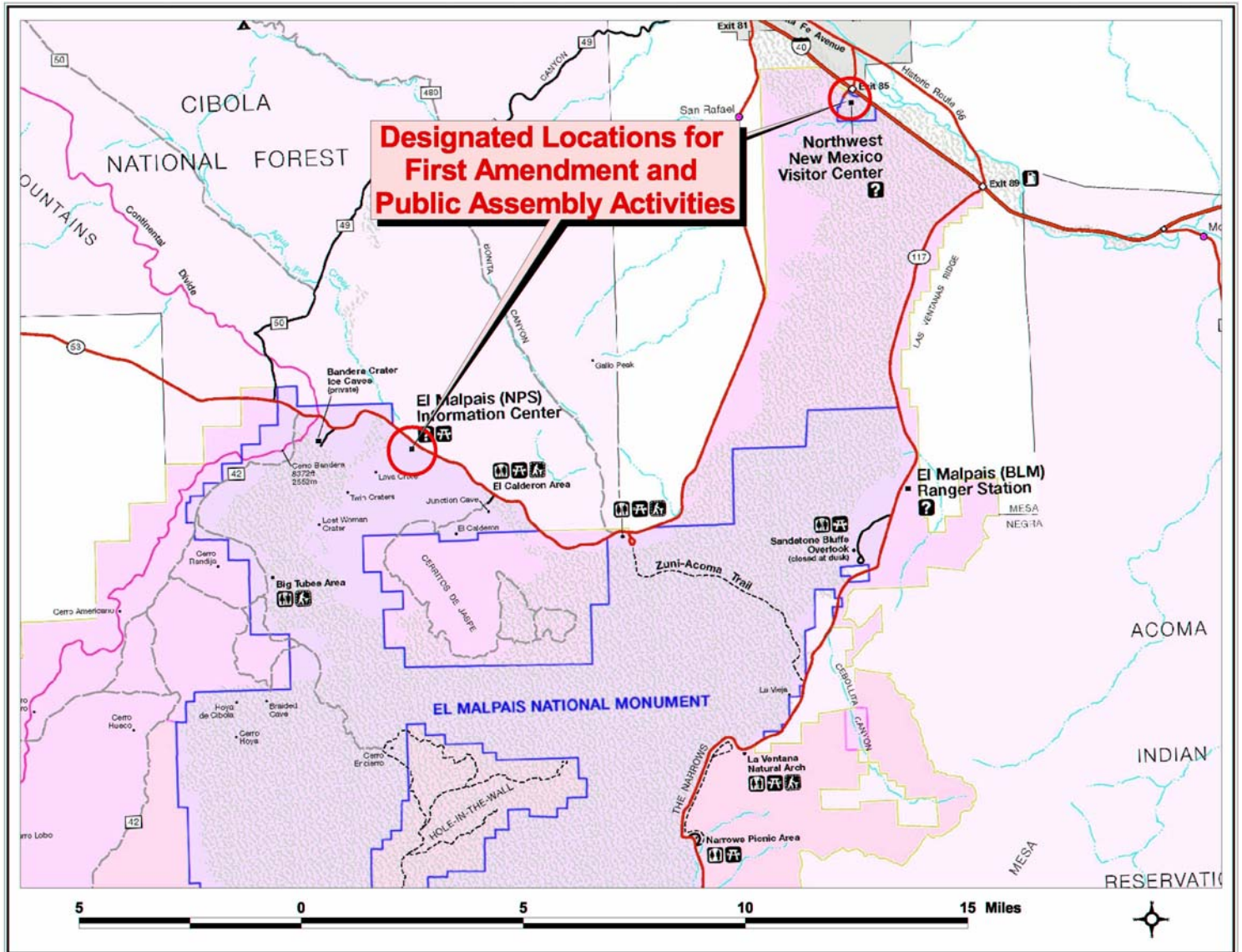
Section 4.31 Hitchhiking.

Per this section the superintendent hereby designates the following state highways, where they exist within the legislated boundaries of El Malpais National Monument, as areas where hitchhiking or the soliciting of transportation is permitted in compliance with applicable New Mexico State Law.

- New Mexico State Highway 117
- New Mexico State Highway 53

APPENDIX A

Map showing the sites designated under sections **2.51 Designated First Amendment/Public Assembly Location(s)** and **2.52 Sale or distribution of printed matter**



APPENDIX B

New Mexico State Traffic Statute:

66-7-340. Pedestrians soliciting rides or business .

- A. No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
- B. No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

History: 1953 Comp., § 64-7-340, enacted by Laws 1978, ch. 35, § 444.

Cross references. - For the penalty assessment for violation, see 66-8-116 NMSA 1978.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 7A Am. Jur. 2d Automobiles and Highway Traffic § 288.

Anti-hitchhiking laws, their construction and effect in action for injury to hitchhiker, 18 A.L.R. 1447, 68 A.L.R.2d 300.
60A C.J.S. Motor Vehicles § 389.

APPENDIX C

ACTIVITIES REQUIRING A PERMIT

Per **36 CFR Section 1.6(f)** the superintendent hereby provides the following compilation of those activities requiring a permit:

Section 1.5 The following activities related to Public Use Limits:

Visiting or using the Sandstone Bluffs overlooks area between dusk and sunrise;
Visiting or using the Information Center and associated complex outside of the established visiting hours;
Visiting or using the Northwest New Mexico Visitor Center and associated complex outside of the established visiting hours;
Entry into a cave, excepting those listed in **Section 1.5(a)(2) Caves**;
Rock climbing;
Hunting camps;
Recreational Camping
Camping in or at any of the areas closed under **Section 1.5(a)(2) Camping**;
Kindling a ground fire;
Operating a motor vehicle off designated roads and two-tracks;
Driving or parking more than 10 feet off a designated road or two-track;
Operating a vehicle in the Monument without the specified equipment, insurance, and licenses specified in **Section 1.5(a)(2) Operation of Vehicles**;
Picnicking in an area closed under **§1.5(a)(2) Picnicking**.

Section 2.4(d) Carry or possess a weapon, trap, or net

Section 2.5(a) Specimen collection (Take plant, fish, wildlife, rocks or minerals)

Section 2.10(a) The following camping activities:

- _ Camping longer than 7 consecutive days in any one area;
- _ Camping in one location with a group larger than 15 persons.

Section 2.12(a)(2) Operating a chain saw in developed areas

(a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas

(a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to Section 2.50 or Section 2.51

Section 2.17(a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means

(c)(1) Removal of a downed aircraft

Section 2.23 Special recreation activities

Section 2.37 Soliciting or demanding gifts, money goods or services

Section 2.38(a) Use, possess, store, transport explosives, blasting agents

(b) Use or possess fireworks

Section 2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony, and similar events

Section 2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views

Section 2.52(c) Sale or distribution of printer matter that is not solely commercial advertising

Section 2.60(b) Livestock use

Section 2.61(a) Residing on federal lands

Section 2.62(b) Memorialization - (Scattering ashes from human cremation)

Section 3.3 Use of a vessel

Section 4.11(a) Exceeding of established vehicle load, weight and size limits

Section 5.1 Advertisements - (Display, posting or distribution.)

Section 5.3 Engaging in or soliciting any business (requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).

Section 5.5(a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television

(b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

Section 5.6(c) Use of commercial vehicles on park area roads (The superintendent shall issue a permit to access private lands within or adjacent to the park when access is otherwise not available)

Section 5.7 Construction of buildings, facilities, trails, roads, boat docks, path, structure, etc.

Section 6.9(a) Operation of a solid waste disposal site